



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,839	05/31/2005	Steven G. E. Aerts	BE 020040	6487
65913	7590	04/03/2008	EXAMINER	
NXP, B.V. NXP INTELLECTUAL PROPERTY DEPARTMENT M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			DARE, RYAN A	
			ART UNIT	PAPER NUMBER
			2186	
			NOTIFICATION DATE	DELIVERY MODE
			04/03/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/536,839	<b>Applicant(s)</b> AERTS, STEVEN G. E.	
	<b>Examiner</b> RYAN DARE	<b>Art Unit</b> 2186	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/02/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 19 is directed towards a computer program. A computer program not tangibly embodied in a hardware storage medium such as a RAM, ROM, or hard disk drive, is non-statutory, as it does not fall in any of the statutory categories of invention. Claim 20 is directed towards a record carrier comprising a computer program. Claim 20 is non-statutory for the same reason. A reasonable interpretation of a "record carrier" could mean a signal, which is non-statutory.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nonaka et al., US Patent 6,654,949.

4. With respect to claim 1, Nonaka teaches a portable content presentation device comprising: a content signal source for providing a first content signal; a memory; a presentation signal generator operable to generate a presentation signal from the first content signal; a portability processor for determining a portability state of the portable content presentation device; and a memory controller operable to dynamically adjust a first memory allocation of the memory associated with the first content signal and to create a second memory allocation of the memory for a second application in response to the portability state, in col. 4, lines 4-58, where the pickup and amplifier supply the signal, the vibration resistive memory controller 6 is the portability processor, and the controller creates the first memory allocation in memory 7, and col. 5, lines 6-64 which describe the second memory allocation and application, that is the microcomputer 8 receiving the signal and storing it.

5. With respect to claim 2, Nonaka teaches a portable content presentation device as claimed in claim 1 wherein the first memory allocation is a buffer memory allocation for the first content signal, in col. 4, lines 4-58.

6. With respect to claim 3, Nonaka teaches a portable content presentation device as claimed in claim 2 wherein the first memory allocation is electronic shock protection memory and the portable content presentation device comprises a shock protection processor operable to control the buffering of the first content signal in the memory so as to reduce fluctuations in a content signal buffer output rate, in col. 4, lines 4-58.

7. With respect to claim 4, Nonaka teaches a portable content presentation device as claimed in claim 1 wherein the portability state comprises a portability state indication

of whether the portable content presentation device is in a substantially stationary state or in a substantially portable state, in col. 4, lines 4-12.

8. With respect to claim 5, Nonaka teaches a portable content presentation device as claimed in claim 4 wherein the portability processor is operable to set the portability state indication in response to a movement detection, in col. 4, lines 4-12.

9. With respect to claim 6, Nonaka teaches a portable content presentation device as claimed in claim 4 wherein the portability processor is operable to set the portability state indication in response to a detection of the portable content presentation device having an external connection, in col. 1, lines 9-14.

10. With respect to claim 7, Nonaka teaches a portable content presentation device as claimed in claim 6 wherein the external connection is an external connection to a substantially stationary presentation device, in col. 1, lines 9-14.

11. With respect to claim 8, Nonaka teaches a portable content presentation device as claimed in claim 6 wherein the external connection is an external connection to a power source, in col. 4, lines 4-58.

12. With respect to claim 9, Nonaka teaches a portable content presentation device as claimed in claim 1 wherein the second application is a control application of the portable content presentation device, in col. 5, lines 27-31.

13. With respect to claim 10, Nonaka teaches a portable content presentation device as claimed in claim 1 wherein the content source is further operable to provide a second content signal and wherein the second application is a processing function associated with the second content signal, in col. 5, lines 6-64.

14. With respect to claim 11, Nonaka teaches a portable content presentation device as claimed in claim 1 wherein the second application is a presentation application of a second content signal, in col. 5, lines 27-31.

15. With respect to claim 12, Nonaka teaches a portable content presentation device as claimed in claim 11 wherein the second content signal is a different type of content signal than the first content signal, in col. 5, lines 27-31, where the content signal is a display.

16. With respect to claim 13, Nonaka teaches a portable content presentation device as claimed in claim 12 wherein the first content signal is an audio content signal and the second content signal is a visual content signal, in col. 5, lines 27-31 which describes the visual content signal, and the previously cited sections, which dealt with the audio signal.

17. With respect to claim 14, Nonaka teaches a portable content presentation device as claimed in claim 13 wherein the second application is an image presentation application and the portable content presentation 30 device (101) is operable to use the second memory allocation as an image cache, in col. 5, lines 27-31.

18. With respect to claim 15, Nonaka teaches a portable content presentation device as claimed in claim 1 wherein the second application is enabled by the creation of the second memory allocation, in col. 5, lines 27-31

19. With respect to claim 16, Nonaka teaches a portable content presentation device as claimed in claim 1 wherein the portable content presentation device is a portable audio player, in col. 1, lines 5-8.

20. With respect to claim 17, Nonaka teaches a portable content presentation device as claimed in claim 1 wherein the memory consists in single memory element, in col. 5, lines 28-36, memory 7.

21. With respect to claim 18, Nonaka teaches a method of presenting content, the method comprising: receiving a first content signal; determining a portability state of the portable content presentation device; generating a presentation signal from the first content signal; and dynamically adjusting a first memory allocation of the memory associated with the first content signal and a second memory allocation of the memory for a second application, in col. 4, lines 4-58, and col. 5, lines 6-64, with reference to the rejection of claim 1 above.

22. Claims 19 and 20 are rejected for similar reasons as claim 18.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN DARE whose telephone number is (571)272-4069. The examiner can normally be reached on Mon-Fri 9:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on (571)272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2186

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matt Kim/  
Supervisory Patent Examiner, Art  
Unit 2186

/Ryan Dare/  
Ryan Dare  
March 3, 2008